

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

OLIVER A. PENTINMAKI, JR.,

Plaintiff,
v.

LT. ALBERTS and OFFICER PAYNE,

Defendants.

ORDER

10-cv-194-slc

In an order entered June 25, 2010, plaintiff Oliver Pentinmaki was granted leave to proceed on his claim that defendants Alberts and Payne used excessive force against him, in violation of the Eighth Amendment. Pursuant to an informal service agreement with the Wisconsin Department of Justice, plaintiff's complaint and the June 25 order were sent to the office of the Attorney General for service on the defendants. An answer is expected to be filed by August 4, 2010.

Now before the court is plaintiff's motion "to provide surveillance film," which appears to be a similar request to the motion "for preservation of evidence" plaintiff filed on May 25, 2010. In a May 28, 2010 order, I denied plaintiff's motion to preserve video evidence because it was too early in the case to determine whether the evidence is relevant to this case. I told plaintiff that after his complaint had been screened and a preliminary pretrial conference had been held, he could make a discovery request for evidence from the defendants. Although plaintiff has now been granted leave to proceed on his claim, the pretrial conference has not yet been held in this case. Therefore, plaintiff's motion to provide surveillance film must be denied as premature. Even so, if defendants have relevant audio or video evidence, they have an obligation to hold it until we can sort out what's discoverable in this lawsuit.

After the defendants have filed an answer to plaintiff's complaint, the court will hold a preliminary pretrial conference at which the court will set the schedule for trial and discuss with the parties the rules of discovery. If plaintiff has questions about making discovery requests or any other matters that pertain to this case, he may ask them during the conference. At this time, however, it is still too early for plaintiff's request.

ORDER

IT IS ORDERED that plaintiff's motion "to provide surveillance film," dkt. #24, is DENIED as premature.

Entered this 7th day of July, 2010.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge